IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SIXTH DAY OF NOVEMBER
TWO THOUSAND AND EIGHT
PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION No. 21605 of 1999

Between:
G.B. Reddy S/o. Bheemreddy
R/o. 10-9-114, Shivajinagar, Nizamabad District.

..... PETITIONER

AND

1 The Labour Court-II, Rep. by its Presiding Officer.
4th Floor, Chandravihar building, M.J.Road, Hyderabad,
2 The Depot Manager,
A.P.S.R.T.C. Bus Depot, Nizamabad District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to call for the records from the Ist Respondent in respect of I.D.No. 111/92 and issue appropriate Writ or direction particularly one in the nature of WRIT OF MANDAMUS directing to set aside the impugned award dated 6-10-1993 passed in I.D.No. 111/92 in so far as denying the petitioner with backwages and putting the petitioner at the bottom of seniority list as arbitrary, unjust and in violation of Articles-14, 16 & 21 of the Constitution of India and consequently direct the 2nd Respondent corporation to pay the petitioner the backwages alongwith restoration of seniority in the interest of justice and fair play and pass.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondent: GP FOR LABOUR

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION No.21605 OF 1999

O R D E R:

This writ petition is filed by the petitioner aggrieved by the award of the Labour Court-II, Hyderabad, in I.D.No.111 of 1992, dated 06-10-1993.

While the petitioner was conducting bus No.AAZ 8077 between Nizamabad and Gudivada on 27-07-1986, the checking officials made a surprise check at stage No.25 and found certain cash and ticket irregularities for which a charge sheet was issued to him containing the following charges:

i. "For having demanded Rs.10.00 and collected at boarding point from passenger towards luggage charge, which was below 40 Kgs. free allowance given by the department, and failed to issue tickets, who was alighting at Gudivada and boarded your bus at Kodada ex-stages 15 to 25 along with one double-cot parts numbering three. The checking officials made you to refund the amount of Rs.10.00 to the passenger, treating the amount collection from the passenger by you as illegal at the time of check, while you were conducting bus No.AAZ 8077 on 27-07-1986 on route Nizamabad to Gudivada, which constitutes misconduct under Reg.28 (vi) (a) (xxiv), (xxxi) and (xxxii) of APSRTC Employees (Conduct) Regulations, 1963.

ii. For having had an amount of RS.5.50 excess in you bus cash at the time of check while you were performing your duty as referred in the above charge, which constitutes misconduct under Regulation 28 (xxiv), (xxii) and (xxxii) of APSRTC Employees' (Conduct) Regulations, 1963".

On the ground that the charges levelled against the petitioner were proved, he was removed from service. Consequent thereto, he raised a dispute under the Industrial Disputes Act, 1947. Initially, the

Industrial dispute was numbered as I.D.No.652 of 1988 by the Additional Labour Court, Hyderabad and on its transfer to the Labour Court-II, Hyderabad, it was renumbered as I.D.No.111 of 1992.

Before the Labour Court, while no evidence was adduced on behalf of the petitioner, Exs.M.1 to M.16 were marked on behalf of the respondent-Corporation.

The Tribunal though observed that the petitioner, in his spot explanation, under Ex.M.5 had stated that he collected Rs.10/- towards luggage ticket and forgot to issue luggage ticket but, however, took a lenient view on the ground that there was no loss of revenue to the Corporation since the luggage of less than 40 Kgs. was not chargeable. While recording such finding, the Tribunal ordered reinstatement of the petitioner into service but without backwages and directed to place him at the bottom of the seniority list.

Sri V.Narasimha Goud, learned counsel for the petitioner, would submit that the Tribunal having denied backwages to the petitioner, ought not to have placed him at the bottom of the seniority list.

The charge framed against the petitioner was that he collected an amount of Rs.10/- from a passenger towards luggage charges though the luggage of less than 40 Kgs was not chargeable. Even though, he has admitted that he collected Rs.10/- towards luggage charges but, however, sought to defend stating that he forgot to issue luggage ticket. The Tribunal having considered that there was no loss of revenue to the Corporation, ordered reinstatement. In view of the proved misconduct, imposition of punishment of reduction in the seniority by placing him at the bottom of the seniority list by the Tribunal cannot be said to be disproportionate.

The writ petition is also liable to be dismissed on the ground that though the award was passed on 06-10-1993, the petitioner has challenged the validity of the award by filing the writ petition only on

13-10-1999. There is no reason, much less valid reason, explaining the delay and laches on the part of the petitioner in approaching this Court nearly six years after the award of the Tribunal.

For the aforementioned reasons, I do not find any merit in this writ petition. The writ petition fails and is accordingly dismissed.

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R.SUBHASH REDDY,J

Dt.06-11-2008
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